IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3703 of 1997

For Approval and Signature:
HONOURABLE MS. JUSTICE R.M.DOSHIT

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

SATISHCHANDRA NAGINDAS LAKDAWALA - Petitioner(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

==========

Appearance :
MRS KETTY A MEHTA for Petitioner(s) : 1,
MS MINI NAIR, AGP for Respondent(s) : 1 - 2.

==========

CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT

Date : 22/06/2007

ORAL JUDGMENT

This petition preferred under Articles 226 and 227 of the Constitution of India arises from the judgment and order dated 24th April, 1997 passed by

the Urban Land Tribunal in Appeal No.Surat 84/1993.

It appears that the petitioner owns certain lands within the urban agglomeration of Surat city in excess of the ceiling limit under the Urban Land (Ceiling and Regulation) Act, 1976 (hereinafter referred to as, **"the Act of 1976"**). Pursuant to his application he was granted exemption from the operation of the Act of 1976 under Section 20 of the Act in respect of some 8,400 sq.meters of the vacant land. By order dated 2nd November, 1993 the said exemption was cancelled by the competent authority and Additional Collector, Surat for breach of conditions of exemption. The competent authority also observed that the said land admeasuring 8,400 sq.meters (hereinafter referred to as, **"the excess land"**) be considered to be vacant land and the proceedings be initiated under Sections 6 to 11 of the Act of 1976. The said order was challenged in appeal before the Urban Land Tribunal and was confirmed by the Urban Land Tribunal by impugned judgment and order. Therefore, the present petition.

Pending this petition, possession of the excess land continued with the petitioner. In the mean time, the Act of 1976 has been repealed by the Urban Land (Ceiling and Regulation) Repeal Act, 1999 (hereinafter referred to as, **"the Act of 1999"**) with effect from 30th March, 1999. Mrs.Mehta has submitted that in view of Section 4 of the Act of 1999, the possession of the excess land having continued with the petitioner the impugned order shall stand abated. Ms.Nair admits that the possession of the excess land had continued with the petitioner until the date of the Act of 1999.

Section 4 of the Act of 1999 reads as under :

"All proceedings relating to any order made or purported to be made under the principal Act pending immediately before the commencement of this Act, before any court, tribunal or any authority shall abate:

Provided that this section shall not apply to the proceedings relating to sections 11, 12, 13 and 14 of the principal Act in so far as such proceedings are relatable to the land,

possession of which has been taken over by the State Government or any person duly authorised by the State Government in this behalf or by the competent authority."

In above view of the matter, the petition is allowed. The impugned judgment and order dated 24th April, 1997 passed by the Urban Land Tribunal in Appeal No.Surat 84/1993 is quashed and set-aside. The proceedings for cancellation of the exemption granted under Section 20 of the Act of 1976 is quashed and set-aside. Rule is made absolute. The parties shall bear their own cost.

(Ms. R.M.Doshit, J.)

/moin